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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,133	09/10/2003	John A. Boticki	JD-211-US	2132

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EXAMINER
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GORMAN, DARREN W

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,133	<b>Applicant(s)</b> BOTICKI ET AL.	
	<b>Examiner</b> Darren W. Gorman	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005 and 15 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 and 14-16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Examiner's Notes

1. The following office action is in response to the reply filed November 10, 2005, and also to the reply filed December 15, 2005.

### *Election/Restrictions*

2. Applicant's election without traverse of species Group II in the reply filed on December 15, 2005 is acknowledged.
3. Claims 5-7 and 14-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 15, 2005.

### *Drawings*

4. The annotated drawing sheet showing Figures 5-7 was received on November 10, 2005. The addition of reference numbers "28A" and "29A" to Figure 5 is disapproved (See paragraph 5 below with respect to the objection to the specification under 35 U.S.C. 132(a)).

### *Specification*

5. The amendment filed November 10, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall

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introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is as follows:

The paragraph inserted between paragraphs 0024 and 0025, which defines the friction fit between tubular body section 22A and nozzle head 42A as a "tongue 29A" and "groove 28A" friction fit, is not clearly supported by the original disclosure. The cross-sectional view of the second embodiment as shown in Figure 5 does not, by itself, adequately and clearly support a "tongue and groove" friction fit. As shown, the engaging portions of tubular body section 22A and nozzle head 42A located immediately to the right of holes 24A, are not necessarily a tongue and groove fit. Such engagement could be a pair of or a series of prongs or projections on tubular body section 22A seated in corresponding detents located on nozzle head 42A.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-4 and 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 10, the recitation "the frictional fit/attachment provided by a tongue and groove relationship between the tubular member and the spray nozzle head", was not adequately described in the originally filed specification.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider, USPN 3,946,947, in view of Maas, USPN 4,730,775.

Schneider (see Figures 12-15) shows a foam nozzle attached to a spray nozzle head, comprising: a tubular member (33b') having one end portion (91) frictionally fit over a cylindrical surface (80a) of the spray nozzle head; a foam-producing member (46a') located in an opposing end portion and positioned inwardly from the opposing end portion; and a plurality of air passageways (99) extending into the tubular member and terminating upstream (at 96) from the foam producing member, the air passageways extending over a portion of the spray nozzle (see column 10, line 67 through column 11, line 17). Schneider also shows the foam-producing member being defined by a centrally positioned wall portion (46a') with rib members (97) extending radially therefrom.

However, Schneider does not expressly teach the frictional fit as including a tongue and groove. It should be noted that Schneider discloses that axially movement of the foam nozzle in

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relation to the spray nozzle head is limited by engagement of the end (94a) of internal sleeve (94) in the direction towards the spray nozzle head when the foam nozzle is fully mounted upon the spray nozzle head, however Schneider does not include an additional means to prevent unwanted axial movement in the direction away from the spray nozzle head. Though the disclosure of Schneider does not include such a provision, it is well known in the art to include cooperating "tongue and groove" formations on frictionally engaged cylindrical members in order to prevent axial movement of one member in relation to the other in either direction.

Maas shows a foam nozzle assembly (see Figure 11), which includes two frictionally engaged cylindrical members (22 and 24) having a tongue (85) and groove (83) engagement, which "serves to releasably, axially, fix the pieces 22 and 24 together" (see column 6, lines 25-33). It should also be noted that the tongue and groove engagement shown by Maas does not prevent air from being induced through the longitudinally arranged air passageways (135, 136) defined between the cylindrical members (22 and 24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the frictional fit of Schneider to include a tongue and groove engagement, as taught by Maas, thereby releasably fixing the two cylindrical members together and preventing unwanted axial movement of one member in relation to the other member in both directions, without preventing the induction of air through the air passageways.

*Allowable Subject Matter*

10. Claims 9 and 18-20 are allowed.

*Response to Arguments*

11. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection set forth above.

*Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Darren W Gorman  
Examiner  
Art Unit 3752

*DWG 2/14/06*  
DWG  
February 14 2006

  
**David A. Scherbel**  
Supervisory Patent Examiner  
Group 3700